

---

## Human Services Committee

---

### HB 1407

**Brief Description:** Concerning intermediate care facilities.

**Sponsors:** Representatives Williams and Goodman.

#### Brief Summary of Bill

- Creates a definition of an Intermediate Care Facility for Persons with Developmental Disabilities, which is the equivalent of the federal Intermediate Care Facility for the Mentally Retarded (ICF/MR) and the state Residential Habilitation Center (RHC).
- Includes Intermediate Care Facilities for Persons with Developmental Disabilities within the purview of statutes setting forth the rights of long-term care residents.
- Precludes the Department of Social and Health Services from transferring or discharging a resident from an Intermediate Care Facility for Persons with Developmental Disabilities because of a partial closure of the facility.
- Requires that written notice of a transfer or discharge of a resident from an Intermediate Care Facility for Persons with Developmental Disabilities be provided to the human rights committee of the facility.
- Requires the Long-Term Care Ombudsman to monitor the implementation of the residents' rights provisions with respect to Intermediate Care Facilities for Persons with Developmental Disabilities.

**Hearing Date:** 2/2/09

**Staff:** Linda Merelle (786-7092)

#### **Background:**

State statutory provisions regarding rights of long-term care residents are generally set forth in chapter 70.129 RCW. There are several chapters within the Revised Code of Washington that govern facilities that provide long term care. Generally, they fall into the category of one of the following: (1) nursing home (18.51 RCW), (2) boarding home (18.20 RCW), (3) veteran's home

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

(72.36 RCW), (4) adult family home (70.128 RCW), or (5) a residential habilitation center (RHC) (71A.20 RCW). (An RHC is the equivalent of an "Intermediate Care Facility for the Mentally Retarded" (ICF/MR) as defined in federal statute and certified by the Department of Social and Health Services and the federal Department of Health and Human Services to provide residential care under 42 U.S.C. § 1396d(d).)

The state's long-term care resident rights' laws include a range of protections for individuals who are considered to be among the state's most vulnerable persons. These residents' rights include protections for privacy, confidentiality of medical records, specific discharge or transfer requirements, protection against physical or chemical restraints, and requirements for financial disclosure, to name a few. Residents in nursing homes, boarding homes, veteran's homes and adult family homes are expressly covered within the provisions of the statutes regarding rights of long-term care residents. The RHCs and ICF/MRs are not covered by RCW 70.129.

*Residential Habilitation Centers*

The RHCs (or ICF/MRs) are residential facilities that provide care for persons with developmental disabilities under Medicaid entitlement programs. If a person has been determined to be eligible for services they are entitled to live in and receive services in a RHC. If they choose to live in the community, they may "waive" living in a residential facility or institution, and may receive services in the community under one of four waivers, Basic, Basic Plus, Core, or Community Protection.

Washington has five RHCs which provide services to persons with developmental disabilities. Fircrest School and Lakeland Village provide nursing home care in addition to services to persons with developmental disabilities who do not need nursing care. Yakima Valley School is exclusively a nursing facility.

<i>Facility</i>	<i>Location</i>	<i>Number of Residents</i>
Lakeland Village	Medical Lake, Spokane County	190 -- ICF/MR 60 -- Nursing Home
Rainier School	Buckley, Pierce County	370 -- ICF/MR
Yakima Valley School	Selah, Yakima County	108 -- Nursing Home
Fircrest School	Seattle, King County	200 (do not have breakdown for ICF/MR beds and Nursing Home beds)
Frances Haddon Morgan Children's Center	Bremerton, Kitsap County	54 -- ICF/MR

*Transfer of Resident from One RHC to Another*

For many of the decisions made by the Department of Social and Health Services (DSHS), a person who disagrees with the decision may seek administrative review of, or an adjudicative proceeding regarding, the DSHS's decision. If the DSHS decides to transfer a resident from one RHC to another RHC, there is no right to an adjudicative proceeding if the DSHS concludes that

the facility cannot provide services due to: (1) decertification of the RHC; (2) revocation of the RHC's certification; (3) an emergency suspension of the RHC's certification; (4) partial closure of the RHC, or (5) closure of the RHC. If the DSHS transfers a resident from one RHC to another, the resident, or his or her representative, must be notified in writing at least 30 days before any transfer occurs and must include the reason for the proposed transfer. The resident has a right to an informal administrative review before the Division of Developmental Disabilities.

The term "Intermediate Care Facility for Persons with Developmental Disabilities" is not defined in Washington statute or the Administrative Code.

**Summary of Bill:**

The RHCs are effectively brought within the purview of the provisions of the long-term care resident rights statute. The definition for a facility under the long-term care resident rights statute (70.129 RCW) is expanded to include an "Intermediate Care Facility." A definition for an "Intermediate Care Facility" or "Intermediate Care Facility for Persons with Developmental Disabilities" is provided and defined as:

A facility described in federal law as an intermediate care facility for the mentally retarded that is certified by the Department of Social and Health Services or by the Federal Department of Health and Human Services to provide residential care under 42 U.S.C. § 1396 (d).

Under this definition, an "Intermediate Care Facility" or "Intermediate Care Facility for Persons with Developmental Disabilities" is identical to an RHC. The bill does not amend or reference the statutes that expressly govern the RHCs.

Among the rights, residents of Intermediate Care Facilities, thus residents of RHCs, shall not be requested to or required to waive potential liability for injury or losses of personal property or waive rights set forth in the resident rights' statute. An Intermediate Care Facility must permit each resident to remain in the facility and not transfer or discharge the resident unless: (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met at the facility; (2) the safety of individuals in the facility is endangered; (3) the health of individuals in the facility in the facility would otherwise be endangered; (4) the resident has failed to make the required payment for his or her stay; or (5) the facility ceases to operate. The ability of the DSHS to transfer a resident as a result of a partial closure of a facility is not included in the permissible reasons to transfer or discharge a resident of an Intermediate Care Facility, contrary to the terms set forth in the Washington Administrative Code (WAC) regarding RHCs.

As required by the WACs governing the RHCs, notice to the resident or his or her representative of transfer or discharge required must be made by the facility at least 30 days before the resident is transferred or discharged. In addition, written notice must be provided to the human rights committee of the facility. Also, the implementation of resident's rights regarding intermediate care facilities will be monitored by the Long-Term Care Ombudsman.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.